

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

PAUL NELSON,)	
)	
Petitioner,)	
)	
vs.)	Case No. CIV-11-636-D
)	
DAVID PARKER, Warden,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

Petitioner, a prisoner appearing *pro se*, has filed this habeas corpus action pursuant to 28 U. S. C. §2254. The matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U. S. C. §636(b)(1)(B). By order dated June 8, 2011, the undersigned noted that Petitioner's filing was deficient and advised Petitioner that in order for his action to proceed, he must cure the deficiencies by June 27, 2011. Petitioner was advised in the order that failure to comply with the order could result in the dismissal of his action.

A review of the Court file reveals that as of this date Petitioner has not responded to this Court's Order. He has not cured the deficiencies, shown good cause for his failure to do so, or requested an extension of time to comply with the order. The undersigned finds that Petitioner's failure to comply with this Court's Order together with the Court's right and responsibility to manage and control its case load, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents, at Arapahoe County Justice*

Center, 492 F.3d 1158, 1161 n. 2, 1162 (10th Cir. 2007) (sua sponte dismissal for failure to comply with Court's order permitted under federal rule, and court need not follow any particular procedures in dismissing action without prejudice for failure to comply).

RECOMMENDATION

Therefore, it is the recommendation of the undersigned that Petitioner's action be dismissed without prejudice to refiling. Any objection to this Report and Recommendation must be filed with the Clerk of this Court on or before the 4th day of August, 2011, in accordance with 28 U. S. C. §636 and Federal Rule of Civil Procedure 72. Failure to make a timely objection to this Report and Recommendation waives the right to appellate review of both the factual findings and the legal issues decided herein. *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the Magistrate Judge in the captioned matter.

ENTERED this 15th day of July, 2011.



BANA ROBERTS
UNITED STATES MAGISTRATE JUDGE